

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

COLLEGESOURCE, INC. : CIVIL ACTION  
 :  
 v. :  
 :  
 ACADEMYONE, INC., et al. : NO. 10-3542

ORDER

AND, NOW, this 27th day of September, 2012, upon consideration of Plaintiff's Motion for Leave to Supplement Opposition to Defendant's Motion for Summary Judgment and Conduct Additional Discovery (Docket No. 222), IT IS HEREBY ORDERED that said motion is DENIED.

The plaintiff has filed a motion based on arguments that the Court discussed with counsel during a telephone conference on the record on September 11, 2012. The Court held the telephone conference after it had received letters from counsel concerning the plaintiff's request to reopen discovery and to supplement its opposition to the pending motion for summary judgment. The "newly discovered evidence" relates to the defendants' Apple Server and the plaintiff's server logs.

Counsel for the plaintiff told the Court during that conference that the information they are describing as "newly discovered" was found by using recently a search vehicle called "Agent Ransack." When the Court asked counsel for the plaintiff why this search vehicle could not have been used earlier, counsel said that it was a search vehicle that they did not think was necessary. When the Court asked why the plaintiff could not have

done this months and months ago, when faced with the motion for summary judgment or during discovery, the answer was "well, I wish we had."

The Court also learned during the telephone call that "Agent Ransack" is a software program called "Freeware" and is available free on the internet. It was created in the year 2000. This is not new software.

The Court is especially concerned that the so-called "newly discovered evidence" relates to the plaintiff's own server logs. Initially, CollegeSource objected and refused to produce the server logs. The plaintiff is now seeking to use its own server logs as additional newly discovered evidence.

This is a 2010 case. The end of discovery was many months ago and the motion for summary judgment was filed in February 2012. The Court has heard oral argument on the motion for summary judgment and is finalizing its decision on that motion. It is too late to reopen discovery or to submit additional materials for summary judgment. The plaintiff has offered no persuasive reason why it could not have done years ago all of the research it now relies on.

BY THE COURT:

/s/ Mary A. McLaughlin \_\_\_\_\_  
MARY A. McLAUGHLIN, J.